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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1940

No. 170

YAZOO & MISSISSIPPI VALLEY RAILROAD CO.,
Appellant,

vs.

THE BOARD OF MISSISSIPPI LEVEE COMMISSIONERS.

APPEAL FROM THE SUPREME COURT OF THE STATE OF MISSISSIPPI.

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS.

PAT H. EAGER, JR.,
C. M. MURPHY,
Counsel for Appellee.

IN THE SUPREME COURT OF MISSISSIPPI

Docket No. 33914

YAZOO & MISSISSIPPI VALLEY RAILROAD CO.,
Plaintiff-Appellant,

vs.

BOARD OF MISSISSIPPI LEVEE COMMISSIONERS,
Defendant-Appellee.

STATEMENT OF APPELLEE AGAINST JURISDICTION AND MOTION TO DISMISS.

Appellee assigns the following grounds making against the jurisdiction of this Court asserted by the appellant, to-wit:

1. The contest in the Mississippi courts was one concerning the nature of the tax assailed. This was a question of local law. The Supreme Court of Mississippi held that the tax involved was not a property or mileage or benefit tax, but was a privilege or occupation tax, similar in character to that employed by the State for raising its revenue.

2. The decision of the Supreme Court of Mississippi turned upon its construction of the State constitution and State laws, and it was not necessary for it to decide, and it did not decide, any question encountering the Constitution of the United States.

3. The Supreme Court of Mississippi did not decide, and has therefore not denied to appellant, any rights under the Constitution of the United States.

WHEREFORE, appellee most respectfully moves to dismiss the appeal herein.

PAT H. EAGER, JR.,
C. M. MURPHY,
Belzoni, Miss.,
Attorneys for Board of Mississippi
Levee Commissioners,
Defendant-Appellee.

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